

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emilia Mancini	Team: Squad #6	CCRB Case #: 201803263	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/18/2018 12:30 PM	Location of Incident: West 96th Street and Broadway	Precinct: 24	18 Mo. SOL 10/18/2019	EO SOL 10/18/2019	
Date/Time CV Reported Thu, 04/19/2018 1:31 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/26/2018 1:36 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Andrew Nyberg	03026	903181	024 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Louie	25910	964130	024 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Andrew Nyberg	Abuse: PO Andrew Nyberg threatened to arrest § 87(2)(b)	
B.POM Andrew Nyberg	Discourtesy: PO Andrew Nyberg spoke discourteously to § 87(2)(b)	

Case Summary

On April 19, 2018, § 87(2)(b) filed this complaint via phone with the Internal Affairs Bureau under log number 18-15563. § 87(2)(b) complaint was received at the CCRB on April 26, 2018.

On April 18, 2018, at approximately 12:30 p.m., § 87(2)(b) was allegedly attacked by an unidentified individual on the platform of the subway station at West 96th Street and Broadway in Manhattan. § 87(2)(b) exited the station, called 911, and flagged down PO Andrew Nyberg and PO James Louie, of the 24th Precinct. PO Nyberg threatened to arrest § 87(2)(b) and allegedly stated, “Just go home. I don’t want to send your ass downtown” (**Allegation A: Abuse of Authority**, § 87(2)(g) **Allegation B: Discourtesy**, § 87(2)(g) § 87(2)(b) walked away and was not arrested or issued any summonses resulting from this incident.

There was no video footage for this incident.

Findings and Recommendations

Allegation A - Abuse of Authority: Police Officer Andrew Nyberg threatened to arrest

§ 87(2)(b)

Allegation B – Discourtesy: Police Officer Andrew Nyberg spoke discourteously to

§ 87(2)(b)

§ 87(2)(b) described his demeanor throughout the incident as loud, angry and agitated. He stated that after the alleged assault, he purposely yelled and “acted crazy” to get peoples’ attention. In addition to that, § 87(2)(b) used profanity with PO Nyberg when he referred to the unidentified individual. PO Nyberg took a brief statement from § 87(2)(b) and § 87(2)(b) pointed out the alleged assailant. While PO Louie spoke with the unidentified individual, PO Nyberg asked § 87(2)(b) if he wanted to file a police report about the incident. § 87(2)(b) said he did. However, when PO Nyberg learned that there were no witnesses to the incident, he told § 87(2)(b) that he could not take his complaint. § 87(2)(b) became loud, more agitated and asked PO Nyberg why he could not file a police report. PO Nyberg told § 87(2)(b) to leave and allegedly stated, “I don’t want to send your ass downtown.” § 87(2)(b) asked PO Nyberg why he wanted to take him downtown and PO Nyberg stated that § 87(2)(b) was causing public disturbance and “making a scene.” § 87(2)(b) left the location without further incident [BR 01].

PO Nyberg testified that he and PO Louie approached § 87(2)(b) who was loud, angry and irritated. § 87(2)(b) told them that he was assaulted by an unidentified individual who was walking down the street. PO Nyberg then spoke to the unidentified individual, who identified § 87(2)(b) as the primary aggressor. § 87(2)(b) approached PO Nyberg and asked him if he could file a police report against the unidentified individual. PO Nyberg told § 87(2)(b) that the available options would be either for him and the unidentified individual to file cross-complaints against each other and in that case, due to the lack of witnesses, both would be arrested, or they could walk separate ways and forget about the incident. § 87(2)(b) decided to leave the location and not pursue the incident further. PO Nyberg denied that he told § 87(2)(b) “If you don’t leave I’ll take your ass downtown” or made any comment about § 87(2)(b) be taken downtown.

PO Louie did not have any recollection of this incident and did not recall ever interacting with § 87(2)(b) (BR 03). PO Nyberg identified another officer on scene as PO Murray from Transit. However, based on PO Nyberg’s testimony, PO Murray was not standing near where his conversation with § 87(2)(b) took place. § 87(2)(b) also made no mention of this officer on scene.

Patrol Guide Procedure 208-01 notes that an officer can make an arrest without a warrant for a crime (within his presence or not) and reasonable cause exists that arrested person committed the crime (BR 08).

Though PO Nyberg did not witness the physical altercation between § 87(2)(b) and the unidentified individual, § 87(2)(b) confirmed that he had an incident with an unidentified individual. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party [BR 05].
- PO Nyberg has been a member of service for 25 years and has been subject in five CCRB complaints and six allegations, of which one was substantiated:
 - 9600111 involved a substantiated allegation of Force (other) against PO Nyberg. The Board did not make recommendations of discipline.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of November 7, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint [06 Board Review].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 6

Investigator:	_____	Emilia Mancini	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

